

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

BERT MEYER,)	Civil No.: CV04 00049 JMS-BMK
)	(In Admiralty)
Plaintiff,)	
)	DECLARATION OF GEORGE
vs.)	KINNELL, JR.
)	
MATSON NAVIGATION)	
COMPANY, INC.; and PACIFIC)	
LIVESTOCK, INC.,)	
)	
Defendants.)	
_____)	

DECLARATION OF GEORGE KINNELL, JR.

I, GEORGE KINNELL, JR., hereby declare:

1. I am an over the age of eighteen and competent to testify as to the matters herein.
2. I have been a full time employee of Pacific Livestock, Inc. ("PLI") since 1999 and part-time previous thereto.
3. My job duties include tending to PLI's hogs on voyages from Oakland, California to Honolulu, Hawaii, aboard the vessel s/s Lihue.
4. I have made roughly 50 to 60 voyages with hogs on the s/s/ Lihue.
5. I was the only PLI livestock stock tender aboard the

Lihue on the voyage at issue.

6. I have never had any complaints from anyone regarding my washdowns of the hogs or other related work while on the Lihue. In fact, I have been commended by one of the Lihue's Chief Mates, Jeff Hill, for my good work.

7. I was on board the Lihue the night Bert Meyer says he fell on October 1, 2002.

8. I recall seeing a person whom I now know to be Mr. Meyer sitting under a catwalk in the area with one of his supervisors. It was dark at the time.

9. When I saw him I asked what happened and he told me he slipped and fell through a hatch and hurt his leg. Nobody seemed very concerned about it. I offered him some Excedrin. However, neither he nor anyone else ever made any reference to animal waste in the area. The first time I heard that he said there was animal feces was when I learned he had sued PLI.

10. On the day Mr. Meyer says he slipped, PLI had containers of hogs on the Lihue. The containers are located at the very end of the vessel on row 16.

11. The end of the container immediately next to the raised

section of catwalk where Mr. Meyer says he fell was a flat rack which did not contain any animals. The container next to the flat rack contained hogs but the hog containers is at a lower level than the raised catwalk where Mr. Meyer says he fell.

12. On the Lihue, drain lines for the hogs' waste is attached to the back of the containers which faces the ocean at the very end of the Lihue. So the drain lines are located at least forty feet away from the area where Mr. Meyers says he fell since the hog containers are about forty feet long.

13. The drain lines themselves are provided by Matson Navigation Company, Inc. ("Navigation"). Waste from the hog containers travels through the drain line and over the back of the Lihue and into the ocean. Fresh water hoses that allow the hogs to drink are attached to the opposite end of the containers.

14. Navigation also provides garden hoses that are supplied with salt water. I use those hoses to wash down the deck underneath the containers. The deck is also lower than the catwalk where Mr. Meyer says he fell. I typically use PLI's own garden hoses supplied with fresh water to wash down the pigs and interior to the containers.

15. Navigation does not provide any type of material other

than fresh and salt water to clear or deal with animal waste. However, I have never known pig waste to escape from the pig containers and/or remain in the areas where Mr. Meyer was.

16. On the voyage at issue, I was not provided a tour of the vessel or any written rules of instructions on washing down the decks from the crew of the Lihue.

17. While aboard the Lihue, the Master is the "boss" but I am also under the direct supervision and control of the Chief Mate, and it is the Chief Mate that has direct authority over me and the work I do with respect to tending the hogs. For example, if a problem were to arise with respect to any animal waste, the Chief Mate would direct me to clean it up. However, animal waste has never been a problem on any of my voyages on the Lihue.

18. The Chief Mate typically does a daily check-over of the ship, including my area. He also does a check over as the Lihue is approaching Honolulu.

19. The voyage on the Lihue from Oakland to Honolulu typically lasts for four and a half days. I continuously check to make sure there are no leaks from the fresh water lines and drain lines.

20. Every day while at sea, I wash down the hogs and interior of the containers with fresh water supplied through a garden hose. I

also washdown the area between the containers' raised sub floor and the main floor of the containers with salt water. The containers are split level, with hogs occupying both levels. There are horizontally barred windows on the sides of the containers that allow me to spray into the interior. I can walk down the length of the containers using the flat racks which are placed next to containers with hogs.

21. The level of the windows of the containers is higher than the tallest part of any of the hogs so the animals themselves cannot create a waste problem through the windows.

22. When I do my daily washdown, no animal waste is discharged from the containers other than through the end of the waste drain line and none is discharged onto the catwalk between rows fifteen and sixteen.

23. The catwalk has a nonskid surface.

24. I have never slipped on pig waste while on the Lihue and have never heard of anyone other than Mr. Meyer say they have slipped on pig waste.

25. I perform a final washdown the morning of the final day of the voyage from Oakland when the Lihue is still at sea, several hours prior entering port. I use the same procedure to perform the final washdown

that I use for the daily washdowns. I make sure the water coming out of the drain hoses and emptying into the ocean is coming out clean. I also spray salt water into the space under the containers on row sixteen and the deck of the Lihue with a large hose provided by Navigation to make sure the deck under the containers is clean. After the containers have completely drained and nothing is coming out of the drain lines, I remove and seal the drain lines. All this is done several hours before the Lihue enters port in Honolulu.

26. Mr. Meyer says there was chunks of animal waste and slime on the catwalk and hatch cover in the area where he fell and that slime dripped on him as he walked under the catwalk, but I have never seen any and dispute his assertions because the container that was directly aft or behind him when he says he fell was not an animal container but an open flat rack and it is impossible for waste from the hogs to be on that catwalk since the top of closest hog container and any opening is lower than the catwalk where he says he fell. So I dispute his statements that there was animal waste where he says he had his accident.

27. For the same reasons, I dispute Mr. Meyer's statements that waste from PLI's hogs dripped on him as he walked under the catwalk.

28. Also, the openings alongside of the containers are higher


than the hogs and during my washdowns no animal waste is discharged other than through the drain lines that are at least forty feet towards the back of the Lihue from where Mr. Meyer says he slipped.

29. It is possible that there may have been grease from turnbuckles in the area and on the exact spot where Mr. Meyer says his foot slipped from, which he refers to as a "buckle" or "padeye". I have seen greasy turnbuckles leaning on other padeyes on the Lihue.

30. On the night Mr. Meyer says he fell, October 1, 2002, I do not recall any problems with animal waste at all and I did not see any animal waste. When I spoke to Mr. Meyer and offered him Excedrin, neither he nor anyone else said anything about animal waste.

I, GEORGE KINNELL, JR., declare that the foregoing is true and correct under penalty of law.

DATED at Honolulu, Hawaii, FEB 23 2006.



GEORGE KINNELL, JR.